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PRIVATE AND CONFIDENTIAL

September 7, 2023

Hon. Pamela K. Chen
United States District Court for the Eastern District of New York
225 Cadman Plaza East
Courtroom 4F North
Brooklyn, NY 11201-1804

Re: IME WatchDog, Inc. v. Gelardi, et al.
Case No.: 1:22-cv-1032 (PKC) (JRC)
MLLG File No.: 25-2022

Dear Judge Chen:

I am writing to the Court on behalf of Berkeley Research Group, LLC ("BRG"), who was appointed by the Court as the neutral forensic examiner ("Examiner") in the above-captioned matter on June 22, 2022.

I am sending this letter as it has come to BRG's attention that this matter is scheduled for a "global in-person settlement conference" on September 20, 2023, with Magistrate Judge James Cho. BRG wanted to bring to the Court's attention the numerous unpaid invoices relating to BRG's work on this matter to date.

As noted above, BRG was appointed, with the parties' consent, as the Examiner in this matter last year by way of the Consent Order for Forensic Examination of Defendants' Records and Electronic Accounts ("Consent Order") (Docket #90). The Consent Order noted in Section 7, entitled, "Fees & Costs," that "each party 'shall pay one-half (1/2) of the Examiner's costs and fees in carrying out this Order and shall remit payment in accordance with the Examiner's standard billing practices.'"

Since being appointed as Examiner, we have complied with the terms of the Consent Order as noted in the progress reports that were submitted to the Court by the parties on August 19, 2022 (Docket #105) and on Oct. 18, 2022 (Docket #115). The work performed to date by BRG has included collecting approximately 2.2 TBs of data from several mobile devices, desktops, and from Microsoft Office 365. BRG was directed by the parties to collect data from several residences to avoid inconveniencing the parties when it would have been significantly cheaper to FedEx those devices to BRG for imaging. In addition, at least 1 TB of data was processed, indexed and searched as per the complex parameters of Exhibit C (Scope of Search), which included locating and culling correspondence between multiple parties including searching for correspondence with several hundred IME Watchdog customers.

I am reaching out to the Court since most of the invoices that have been issued for the work performed to date are long overdue. More specifically, the Defendants in this matter currently have **\$32,716.46** in unpaid fees, and the Plaintiff currently has **\$16,234.80** in unpaid

Berkeley Research Group, LLC
810 Seventh Avenue, 41st Floor • New York, NY 10019 USA



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fees. BRG has followed up repeatedly with both parties but has not received a payment since late last year. I have attached to this letter a listing of the unpaid invoices.

BRG has sent several emails to counsel and to the parties regarding these unpaid invoices. BRG has noted to counsel in its email correspondence that it took considerable time and effort to comply with the terms of the Consent Order and that the broad scope of search as noted in Exhibit C was going to take significant time to comply with, which would result in higher expenses than had initially been foreseen when the parties engaged BRG in this case. Both counsel were aware of the work being performed by BRG, and counsel noted in the most recent status report filed with the court, the expanded scope of the work that BRG was performing. Neither counsel has questioned the amount billed to date, yet BRG has not received any payment in this case since December 2022. In fact, aside from the initial retainer payments, the parties have each made only one payment to date, even though 9 invoices have been issued for the work performed to date (Plaintiff's only payment: 10/20/2022 & Defendants' only payment – 12/29/2022).

Even in light of the fact that BRG had not been paid for the work performed as the Examiner in this matter, BRG has continued to perform work as per counsel's direction. BRG had been prepared to provide a final forensic report but had not yet drafted a final report as foreseen in the Consent Order as prior to the current settlement discussions, there were still issues being discussed by Plaintiff's counsel and Defendants' counsel regarding additional possible custodians and finalizing certain search terms which had been pulling up a very large number of documents.

Again, the reason for this letter is to bring to the attention of Judge Chen and Magistrate Judge Cho the fact that BRG has not yet been paid for the work that it performed in this case as the court-appointed neutral forensic examiner and BRG respectfully asks that the Court direct the parties to pay all unpaid invoices immediately or as part of a global settlement of this case.

Thank you for your consideration. If you need any additional information or if you have any questions, please do not hesitate to reach out.

Best regards,

A handwritten signature in blue ink, appearing to read "Ignatius Grande", is written over a horizontal line.

Ignatius Grande, Esq., Director
Berkeley Research Group, LLC
Phone: 646-809-8066
Email: igrande@thinkbrg.com

cc: Robert Glasser, BRG

Invoices Issued to Plaintiff IME Watchdog, Inc.

Invoice #	Invoice Date	Payment Date	Status	Invoice Amount	Amount Outstanding
Retainer Payment					-7500
138643	8/26/2022	10/20/2022	Paid	10,303.75	0.00
140379	11/21/2022	10/20/2022	Partial Payment	13,964.84	2,768.59
143560	11/29/2022		Past Due	5,018.34	5,018.34
145019	12/21/2022		Past Due	1,219.84	1,219.84
145926	1/26/2023		Past Due	6,751.45	6,751.45
147715	3/31/2023		Past Due	2,987.17	2,987.17
149244	3/31/2023		Past Due	2,150.50	2,150.50
151458	5/3/2023		Past Due	2,624.33	2,624.33
153975	6/1/2023		Past Due	214.58	214.58
Total				45,234.80	16,234.80

Invoices Issued to Defendants IME Companions, LLC, Vito Gelardi, and Safa Abulrahim Gelardi

Invoice #	Invoice Date	Payment Date	Status	Invoice Amount	Amount Outstanding
Retainer Payment					-7500
138643	8/26/2022		Past Due	10,303.75	10,303.75
140379	11/21/2022		Past Due	13,964.84	13,964.84
143560	11/29/2022	12/29/2022	Paid	5,018.34	0.00
145019	12/21/2022		Past Due	1,219.84	1,219.84
145926	1/26/2023		Past Due	6,751.45	6,751.45
147715	3/31/2023		Past Due	2,987.17	2,987.17
149244	3/31/2023		Past Due	2,150.50	2,150.50
151458	5/3/2023		Past Due	2,624.33	2,624.33
153975	6/1/2023		Past Due	214.58	214.58
Total				45,234.80	32,716.46